

# LOUISVILLE DAILY DEMOCRAT.

VOLUME XIX.

Daily Democrat.

TERMS OF THE DAILY DEMOCRAT  
TO THE COUNTRY.

ONE YEAR. \$6.00  
SIX MONTHS. \$3.00  
ONE MONTH. 60

LOCAL AGENTS WANTED.

We desire to procure the services of a local agent in every Post Office District in the State. Will our friends act, or procure the services of some efficient person on our behalf? Believing that the circulation of the Democrat may be materially extended, we make this appeal to our friends in its behalf.

We yesterday gave the opinions of one of the most distinguished statesmen of the *past* post-Revolutionary era upon the subject of martial law. In our to-day's issue we propose to collate all the different articles in the Constitution bearing upon the crime of treason, under which this martial law is declared, and by an examination, see if the President is authorized to affix any such penalty as he has declared in his proclamation.

Our readers will bear it in mind, that this proclamation is in its very nature a law. If we grant the authority to issue it, it certainly ought to spring from that branch of the Government upon which legislative authority is conferred. Understand us, we do not mean that a soldier or the President may not have it in his power to proclaim martial law in particular localities; but this is a sweeping edict, intended to have all the legal force and effect of a regularly-adopted enactment. Its effects are not, as martial law is intended to be, as much as possible, temporary, but permanent. It is to be the same as it, by constitutional consent of the States, all the slaves in the named territory were emancipated. We contend that herein it is a violation of Article First, section first, of the Constitution, which declares:

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

It is a law—and it seems absurd to deny it—the President has usurped the functions of Congress. He is emphatically the *Executive*, whose business is not to make laws, but to execute those already made. Unless these two powers of legislation and execution be kept separate, it will lead to inevitable confusion.

The President, as the head of the nation, is punishable for *treason*, first, according to the following article:

Art. 3—Sec. 4.—"The President, Vice-President and all civil officers of the United States shall be removed from office on impeachment for and conviction of *treason*, bribery, or other high crimes and misdemeanors."

Art. 1—Sec. 4.—"The Senate shall have power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be tried except with the concurrence of two-thirds of the persons present."

Art. 3—Sec. 3.—"Treason against the United States shall consist only in levying war against them, or adhering to their enemies, giving them aid and comfort. No one shall be tried for treason unless on the testimony of two witnesses to the same overt act or confession in open court."

"The Congress shall have power to decide the question, but no one shall be tried for *treason* except during the life of the person attainted."

Article one, section nine, defining the powers of Congress, says:

"No bill of attainder, or ex post facto law shall be passed."

Section ten of the same article says:

"No State shall \*\*\* pass any bill of attainder."

Article third, section four, says:

"The trial of all crimes, except in cases of impeachment, shall be by jury, &c."

Article fifth of the amendments says:

"No person shall be held to answer for any capital or other infamous crime, unless on presentment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, \*\*\* nor shall private property be taken for public use without just compensation."

Art. 6.—"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and District wherein the crime shall have been committed; and that due process of law shall be secured to him, and that he shall have the assistance of counsel for his defense."

These embrace all the law upon the subject of *treason*, and if the President has the power assumed, he must necessarily derive it from one of these sections.

The first thing that will strike the reader, upon a casual glance, is the extreme care with which the person charged is guarded, and the cautious definition of what constitutes the crime. For example, article first, section second, gives the power of impeachment to the House of Representatives, but the Senate tries the case—and not a majority, but two-thirds, are required for conviction, and punishment extends only to removal from office. Also the manner of trial is prescribed. With this as a light we are prepared to enter upon an examination to see by what authority the President acts.

The first article we will direct attention to is that which confers exclusively the power of declaring the punishment of treason upon Congress. (Art. 3, sec. 5.)

Admitting the means to be legitimate, we ask, is it in the power of the President to assume this exclusive grant to Congress, and punish the rebels by inciting insurrection or taking their property? We have said, in the beginning, that upon general principles, the proclamation is an act of legislation; but whatever doubts might exist, they are clearly dispelled by this article. If this is not qualified or restricted, we suppose it will be admitted that the President has usurped authority and violated the Constitution, and is himself liable to indictment. He must rest on his authority as Commander-in-Chief of the land and naval forces by article second, section second. His authority to punish, for any crime, is confined to article five of the amendments, where his power of punishment, in military cases, is confined to cases arising in the land or naval forces, or in the militia. That is, to persons engaged in the service. He has no power whatever to punish those not so enlisted or drafted. They are entitled to the benefit of the clauses defining treason, and by this same article, above referred to, to a trial by jury. We ask the reader to examine the clauses carefully, and to bear it in mind, that all the President's authority is conferred in this Constitution in the articles given. It must be found there, or it does not exist.

We think we have shown pretty clearly that the power to declare the punishment for treason exists only in Congress, and that body has declared no such punishment as that set forth in the proclamation.

We have proceeded hitherto upon the hypothesis that the course prescribed was lawful; but the authority did not belong to the Executive to declare it. It will take a slight examination to show that neither he nor Congress has any such authority.

Granting either of them the right to confiscate property, at such an extraordinary rate,

LOUISVILLE, KENTUCKY: WEDNESDAY MORNING, JANUARY 7, 1863.

NUMBER 97.

## An Appeal.

It will be seen that the Philadelphians have, with laudable promptitude, taken steps to alleviate the sufferings of the wounded in the late terrible battle at Murfreesboro. We find with regret that there has yet been no concerted effort in our city for the accomplishment of a like purpose. This is mortifying, but there is yet ample time to do all that is necessary. Will the ladies, remembering those noble Kentucky heroes, so many of whom have fallen in the late contest, take immediate steps to see that they are attended to, and properly furnished with everything necessary to alleviate their sufferings? We know that we have but to mention this, to draw out the active sympathy of our people. A meeting should be held, committees and sanguins appointed, and everything else that can be done in aid of an object so noble. It is a debt we owe to them, and one we should be proud to pay. Let us have the meeting called at once and the proper steps be taken.

"It will be remembered that the letter of McClellan to Porter, exhorting him to give a cordial support to General Pope, was a subject of ill-tempered comment in certain quarters unfriendly to both officers. Why did McClellan write that letter, if he had not some misgiving of Pope? It was, moreover, impudent in McClellan.

Why did he write that letter? We told them along ago to seek Mr. Lincoln, and he would explain it. Here is a part of McClellan's testimony in the Porter case:

"A. I do not know what the good General alluded to in his letter to General Pope, but he was a subject of ill-tempered comment in certain quarters unfriendly to both officers. Why did McClellan write that letter, if he had not some misgiving of Pope?"

Q.—As you have already stated that you never entertained a doubt that Gen. Porter would be true to General Pope in that case, how came you to send such a dispatch as that?

A.—I sent it in accordance with a request from the President of the United States, who told me that it was his desire that I should understand that there was an unusual feeling on the part of the Army of the Potomac toward Gen. Pope, and requested me to use my personal influence to correct it, by telegraphing to Gen. Pope, to tell him that there was no necessity for him to do this. I told him that it was not necessary, but was perfectly willing to do it. I had no doubt then in my own mind but that the Army of the Potomac, and all the connected forces, would do their duty without the necessity of any action on my part.

Q.—I understand you to say, then, that you sent the telegraph to quiet the apprehensions of the President, and not to remove any apprehension of your own?

A.—Entirely so.

There is the explanation. Are the enemies of McClellan satisfied with it?

General Porter had the right to complain, if any one had; but he knew that McClellan's reason could be nothing to his discredit; and others might have known that McClellan had some reason not at all creditable to his friend. He knew Porter well, and Porter knew him.

"In reading of the victory at Murfreesboro, one cannot but be struck with the tremendous expense with which it has been carried on. Our losses in killed, wounded and prisoners sum up the enormous figure of 14,500, or nearly one third of all our forces engaged. Such an extraordinary loss is perfectly unparalleled in the annals of warfare, and the desperate valor of our troops, who succeeded in winning a victory under such circumstances, is, with its results, perfectly astounding.

If an army ever could be called invincible, that of Rosecrans certainly deserves the name. Fighting a partially entrenched enemy, superior in numbers, with a river to cross, and with a detachment of Gen. Kelly's troops left Rutherford, attack 2,000 rebels at Blue Gip, Va., and rout them; 450 Union troops, under Palmer, attack 1,200 rebels, under Poindexter, and rout them; 1,000 rebels, under Jackson, with 10,000 men, attack the 5th Connecticut Regiment at Hockock, on the Upper Potomac, shells the town, destroys the railroad and telegraph, and retires.

Gen. Crittenden issues a proclamation to the people of Kentucky calling upon them to support the Federal authority. 4,000 loyal Indians are attacked in Cherokee county, Kansas, by a greater force of Texans and rebels, and defeated, and 1,000 rebels, under Col. Garfield, disband his force at Paintsville, Ky.

A detachment from Gen. Milroy's command, 740 strong, attack 750 rebels at Humperville, Va., routing them and taking \$80,000 worth of stores.

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PRINTED AND PUBLISHED BY HARNEY, HUGHES & CO. OFFICE.

South side Green Street, two doors below the Customhouse.

W. E. HUGHES, State Printer.

WEDNESDAY, JAN. 7, 1863.

Closing and Arrival of the Mails at the Louisville Postoffice.

Eastern, Western and Northern close at 12:00 m.

South and Western close at 12:00 m. via L. & N. R.R., the previous office close at 9:00 a.m. via the previous office, close at 12:00 m. and arrives at 5:00 p.m.

W. & W. R.R. close at 12:00 m. close at 9:00 a.m. and arrives at 12:00 m.

L. & N. R.R. close at 12:00 m. at night and 1:00 p.m. and arrives at 12:00 m.

Shelbyville close at 12:00 m. at night, and arrives at 12:00 m.

Lebanon R.R. close at 12:00 m. at night, and arrives at 12:00 m.

Frankfort R.R. close at 12:00 m. and arrives at 12:00 m.

Lexington Stage close at 12:00 m. and arrives at 12:00 m.

On route where the principal mails close at 12:00 m. and the mails close at 12:00 m.

## REMOVAL.

The LOUISVILLE DEMOCRAT OFFICE has been established on the South <sup>side</sup> of Green street, one door below the Customhouse, on the square between Third and Fourth streets, in the building formerly occupied by the Louisville Courier.

## CITY NEWS.

Military Directory.

Brigadier-General Boyle, commanding United States forces in and about Louisville, Headquarters on Seventh street, between Chestnut and Broadway.

Gen. J. C. Frémont, General-in-Chief of Cavalry—officer on the corner of Third and Jefferson streets.

Major W. H. Spencer, commanding post-office on Chestnut street, between Jefferson and Green streets.

Capt. H. C. Strobridge, Commissioner of Subsistence.

Capt. W. C. Clegg, Adjutant General.

Gen. J. F. Head, Medical Director—office on Walnut street, between Second and Third.

Major Gen. Harvey, Provost Marshal—office on Green street, between Fifth and Center.

Major Gen. Wilson, Ordinance Officer—Seventh and Main streets.

Gen. J. M. Hopkins, under chief of J. M. Clegg.

Capt. W. F. Harris, Assistant Quartermaster (in charge of supplies)—office on Main street, between First and Brook.

Gen. J. M. Hopkins, Adjutant Quartermaster—Main street, between First and Brook.

Paymaster's Office—corner of Third and Walnut streets.

United States Postoffice—over the Postoffice.

Lieutenant Surveyor, Ordnance Office, Main street, between Seventh and Eighth.

General Hospitals in Louisville.

No. 1—corner of Ninth and Broadway streets.

No. 2—Prison Hospital, corner of Ninth and Broadway.

No. 3—Sixth street, between Walnut and Main streets.

No. 4—For Epidemic Diseases, Bardstown turnpike, No. 7—between Main and Center.

No. 5—On a hill east of Park, between Broadway and York.

No. 6—Walnut street, between Main and Center.

No. 7—Walnut street, between Jackson and Hance.

No. 8—corner of Chestnut and Floyd, and City Hospital.

No. 9—corner of Magazine and Ninth streets.

No. 10—corner of Green and Thirteenth streets.

For information, see Louisville Daily Journal.

No. 11—Griffith House, Newburg pike.

No. 12—Baptist Hospital, Main and Market.

No. 13—Baptist Hospital, Jefferson street.

No. 14—Baptist Hospital, between the Bardstown and Newburg turnpikes.

I. O. O. F.—CHOSN FRIENDS LODGE, No. 2.—The officers and members of the above-named Lodge are hereby notified to meet at their hall, on Jefferson street, before First, on the evening of the 7th inst., at one o'clock, for the purpose of attending the funeral of our late brother, Joseph L. Clark.

Done by order of the C. P., Charles M. Loy.

Attest: JOHN M. SLATER, Scribe.

N. B. Members of sister Encampments are respectfully invited to be present.

MAJOR FRANCIS WARD.—We met, last evening, with Mr. Wm. Ward, of Pittsburg, elder brother of the Major's. He will leave this morning for Nashville. He informs us that, according to dispatches he received in Pittsburg last Sunday, his brother is not dead, but is severely wounded. We are rejoiced to hear it, and sincerely trust the brave and gallant young Major may be spared many a long day.

Some excitement occurred at the corner of Third and Market streets last evening, occasioned by some gay Lieutenant taking and using a Colonel's horse, and flourishing just for grandeur. Policemen Reaugh brought the sport to a close by arresting the gay young man, who was finally left off at the instance of the Colonel, and upon his promptings to go and do no more.

THEATRE.—The new sensational drama of "Peep O'Day" was reported last night to be very large and appreciative audience. It is one of the best plays of its class ever presented, and the personations of Mr. and Mrs. Conway are unapproachable. The same piece will be repeated to-night, and we bespeak for it the attention of all our readers, particularly those of the "Hibernian persuasion."

We regret to learn that Mr. Frank Hodgkins, of company C, First Kentucky regiment, was wounded in the head in the fight at Murfreesboro. Frank was well and favorably known here, and his speedy recovery is anxiously hoped for by his many friends. He was wounded in the head at the battle of Shiloh.

The monthly report of the Chief Engineer of the Fire Department, Capt. M. J. Paul, will be found in another column of to-day's paper. Capt. P. has under his control one of the best Fire Departments in the United States. It is noted for its promptness and efficiency.

While some boys were playing with a gun, in Sugar Creek, Clark county, Illinois, a few days ago, it went off while in the hands of a boy by the name of Dasher, and the ball striking another boy named Bray, killed him instantly.

[Special to the Cincinnati Gazette.]

WASHINGTON, JAN. 5.

GENERAL PORTER'S CASE.

Fitz John Porter's friends claim that they have made a strong point against Pope's general credibility. They say that in his evidence in the trial of the 29th of August Jackson alone opposed him, while in the election of 1860 he fought the combined forces of the country.

A delegation of Jews came here from Cincinnati and Paducah, and made an earnest representation of the cruelty and injustice of Grant's exclusion of them from his Department. They and Mr. Gurney waited on the President in the White House, and at once secured the revocation of the order.

THE SIOUX ANNUITIES TAKES AWAY.

Admiral's bill, taking away annuities from the late hostile Sioux in Minnesota, and giving them to the sufferers from the recent outbreak, passed to-day with scarcely any opposition.

NEGROES PROTESTING AGAINST TAXATION WITHOUT REPRESENTATION.

Mr. Sumner presented a petition from negro merchant tailors of Hartford, which, if voted down, would not engross everything, would produce a sensation. It simply removes all old revolutionary war cry, and protests against being taxed, while they have no representation in the Government.

THANKS.—To Mr. Hester, the Adams Express messenger, we are indebted for latest Eastern papers; also, to Mr. Erick, for Cincinnati papers.

There are at present two hundred and fifty rebel prisoners confined in the military prison in this city.

The train from Lexington brought down no passengers or news of importance last evening.

The "Job Department" in the Louisville Democrat Office will be fully prepared by Monday next, to execute every description of plain and fancy printing.

For the largest posters, for public announcements, shows, &c., and for all intermediate grades, down to the finest mercantile printing of all descriptions, the appointments of our Job Office are complete.

The types, presses, cuts, &c., are on hand, and selected with special care for all kinds of railroad and steamboat printing. Our presses are driven with steam, and are adapted to every variety of printing, from the mammoth poster to the most delicate visiting card.

Our patrons, and the public generally, desiring anything in the printing line, would do well to give us a call.

APPAREL.—On Monday night an affray occurred in a coffeehouse on Second street, near the river, in which a member of the First Tennessee cavalry, named Gibson, was knocked down and cut badly with an axe. The police, yesterday, succeeded in arresting the guilty party, who was tried this morning. Gibson's wound is said to be mortal.

[Special to the Cincinnati Gazette.]

MUNFORDVILLE, JAN. 5.

AD.—It will be seen by the advertisement that the First Cavalry, with a

large force, has been

engaged in a

skirmish with

the rebels, and

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APPAREL.—The bridge on the Bardstown turnpike will be ready for use next week.

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